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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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LERIN PIERCE,

Plaintiff(s), Case No.  
16cv5703 (BMC)

-against-

THE CITY OF NEW YORK, P.O. TAQI, P.O. SONIA  
BELLARDO, P.O. MERCADO, P.O. JOHN DOES 1-3,

Defendant(s).  
----- x

DEPOSITION of the Defendant, Sergeant Ivan  
Mercado, taken by the Plaintiff, held at the  
offices of New York City Law Department, 100  
Church Street, New York, New York, on January 18,  
2017, at 2:45 p.m., before a Notary Public of the  
State of New York.

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A P P E A R A N C E S:

GREGORY ANTOLLINO, ESQ.

Attorneys for Plaintiff(s)  
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Suite 705  
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NEW YORK CITY LAW DEPARTMENT

Attorneys for Defendant(s)  
100 Church Street  
New York, New York 10007  
vsmith@law.nyc.gov

BY: VALERIE ELIZABETH SMITH, ESQ.

and

BY: CURT BECK, ESQ.

ALSO PRESENT:

LERIN PIERCE

xxxxxx

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1 I. Mercado

2 Q Yes, going back to this.

3 A Can we put the pictures away now?

4 Q Yes, we can take the pictures away.

5 MR. ANTOLLINO: Okay, guys, a  
6 little less on the chitchat, it's  
7 distracting. I'm trying to keep my  
8 thoughts clear. It's only fair to me  
9 and to getting this done quickly.

10 Q So we're going back to here. In  
11 between those fifteen minutes and the  
12 chitchat, the manager is basically accusing  
13 Mr. Pierce of cutting a wire and taking a  
14 mobile phone case or taking a mobile phone --

15 MS. SMITH: Objection.

16 Q -- fair to say?

17 MS. SMITH: Objection.

18 A Yes.

19 Q Did the manager have the mobile  
20 phone in his hand or did he say that  
21 Mr. Pierce had the mobile phone on his person  
22 or took it and disposed of it someplace?

23 MS. SMITH: Objection.

24 A I don't remember.

25 Q Was there any discussion between

---

1 I. Mercado

2 the two of them?

3 MS. SMITH: Objection.

4 A Between who?

5 MR. ANTOLLINO: Fair objection.

6 I'll withdraw that.

7 Q Was there any discussion between  
8 the manager and Mr. Pierce?

9 A Any discussion between the manager  
10 and Mr. Pierce?

11 Q Yes.

12 A While I was there?

13 Q Yes.

14 A No.

15 Q Who else was present other than the  
16 manager, Mr. Pierce, Officer Bellardo and I  
17 guess that is the end of my list?

18 MS. SMITH: Objection.

19 A Who else was present there when we  
20 were questioning him?

21 Q Yes.

22 A Officer Taqi.

23 Q Anyone else?

24 A I don't remember anyone else.

25 Q Was Police Officer Isaac there?

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I. Mercado

1

2 A What she said at the scene?

3 Q Yes, during the approximate fifteen  
4 minutes.

5 A I don't remember what she said.

6 Q Did she say anything?

7 A I don't remember if she said  
8 anything or if she said something. I don't  
9 remember.

10 Q Did Officer Taqi say anything?

11 A I don't remember.

12 Q Officer Isaac, the two officer  
13 Isaacs at the 84, do they have first names  
14 that you know?

15 A Yes.

16 Q What are they?

17 A I don't know his first name.

18 Q Do you know either first name?

19 A Which ones?

20 Q We established that there are two  
21 PO Isaacs at the 84, correct?

22 A Yes.

23 Q Is it John and Bill or do you know  
24 their first names?

25 A There is Isaac, I don't know his

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1 I. Mercado

2 MR. ANTOLLINO: We will finish  
3 shortly, but we're not going to rush.

4 Q So we were at the approximate  
5 fifteen to thirty minutes.

6 Do you recall anything that stands  
7 out in your mind that occurred between that  
8 period of time?

9 MS. SMITH: Objection.

10 A Between 12:15 and 12:30?

11 Q During that approximate period of  
12 time.

13 A I remember just questioning him.

14 Q Was Mr. Pierce under arrest at that  
15 point?

16 MS. SMITH: Objection.

17 A No.

18 Q Are there electric carts that  
19 police officers use to drive around the city?

20 MS. SMITH: Objection.

21 A Electric carts?

22 Q Yes, electric carts.

23 A I think now they might have some.

24 Q When you say now, when did they  
25 start to use them?

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1 I. Mercado

2 Q Okay, but at this point now you're  
3 not certain that a crime had been committed;  
4 would that be fair to say?

5 MS. SMITH: Objection.

6 A At the point when we were asking  
7 him the questions?

8 Q Yes.

9 A As I remember, at that point I was  
10 kind of iffy if a crime was committed or not.  
11 I was still questioning him.

12 Q It was an accusation, correct?  
13 You have to answer verbally.

14 A It was an accusation that was made  
15 by the manager.

16 Q If I accuse you of stealing my  
17 bicycle, that is not the same as a crime,  
18 correct?

19 MS. SMITH: Objection.

20 A No.

21 Q Certain pieces have to be put  
22 together, I have to prove it in some way or  
23 another, correct?

24 A Yes.

25 MS. SMITH: Objection.

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1 I. Mercado

2 by the reporter.)

3 THE WITNESS: Correct.

4 Q So at that point, what did you do?

5 A At the point where he started to  
6 run?

7 Q Yes.

8 A I got in the RMP.

9 Q The blue and white?

10 A Yes, the blue and white, and I  
11 followed on the street on Flatbush Avenue.

12 Q Bellardo was behind the wheel?

13 MS. SMITH: Objection.

14 A She was driving.

15 MR. ANTOLLINO: Is there a way I  
16 can rephrase that so it's not  
17 objectionable?

18 MS. SMITH: Who was driving?

19 Q Who was driving?

20 A Officer Bellardo.

21 MR. ANTOLLINO: I can lead this  
22 witness whether you think so or not.

23 Q Officer Bellardo was driving?

24 A Yes.

25 Q Where did you go, do you recall?

---



1 I. Mercado

2 A We were following him. We were on  
3 the street.

4 MS. SMITH: Indicating Mr. Pierce?

5 THE WITNESS: Yes.

6 Q You were following Mr. Pierce?

7 A Yes, driving on the street.

8 Q How long did it take you to catch  
9 up with him?

10 MS. SMITH: Objection.

11 A To catch up with him?

12 Q Yes.

13 A Not long, two or three minutes. I  
14 can't say for sure.

15 Q Let me just try to get a sense of  
16 what this looked like.

17 You said that you were at 32 Fulton  
18 Street where this debate or this discussion  
19 was taking place between 12:15 and 12:30,  
20 correct?

21 MS. SMITH: Objection.

22 A I don't know what address it was.

23 Q You don't know what address it was?

24 A No.

25 Q On what street was it?

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1 I. Mercado

2 MS. SMITH: Objection.

3 A He was running along the sidewalk  
4 in my direction of traffic.

5 Q So then he was running on the  
6 sidewalk in the same direction as the side of  
7 the street that you were on?

8 A Yes.

9 Q And at or about Schermerhorn you  
10 apprehended him and Bellardo was driving the  
11 car, correct?

12 MS. SMITH: Objection.

13 A Yes.

14 Q How was he apprehended?

15 A How was he apprehended?

16 Q Yes.

17 A When he fled from approximately  
18 Fulton and Flatbush on foot, he was running  
19 very fast down Flatbush Avenue, and as he was  
20 running down Flatbush Avenue on the sidewalk  
21 he attempted to cross the street to get to  
22 the other side of the street and he collided  
23 with our vehicle that was going in the same  
24 direction on the street.

25 Q All right, so at or about

---

1 I. Mercado

2 Schermerhorn he tried to cross the street?

3 A Yes.

4 Q Was it at the crosswalk or was he  
5 jaywalking or jay-running?

6 MS. SMITH: Objection.

7 A Middle of the street.

8 Q He was in the middle of the street?

9 MS. SMITH: Objection.

10 A Yes.

11 Q And so he accidentally collided with  
12 the blue and white or Officer Bellardo  
13 manipulated the vehicle to stop him?

14 MS. SMITH: Objection.

15 A He tried to jump over the blue and  
16 white.

17 Q He tried to jump over it?

18 A Yes.

19 Q When he tried to jump over, how far  
20 was he able to get?

21 MS. SMITH: Objection.

22 A As I remember?

23 Q Yes.

24 A He hit the front and the hood with  
25 his feet.

---

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3 the street.

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23 Q Yes.

24 A He hit the front and the hood with  
25 his feet.

---



1 I. Mercado

2 does not look anything like the guy that I  
3 remember or would you say I just don't know?

4 MS. SMITH: Objection.

5 A I don't remember him, so I would  
6 not say anything. I don't remember him.

7 Q At that point he is lying on the  
8 ground.

9 Does he try to get up; what  
10 happens?

11 MS. SMITH: Objection.

12 MR. ANTOLLINO: I'll withdraw that.

13 Q What happened next?

14 He is on the ground and what  
15 happened next?

16 A He is on the ground. We get out of  
17 the vehicle and place him under arrest, place  
18 him in handcuffs.

19 Q When he is on the ground is he face  
20 down or face up?

21 MS. SMITH: Objection.

22 A As I remember it he was face down.

23 Q Is it procedure to cuff someone in  
24 the back rather than the front?

25 MS. SMITH: Objection.

---

I. Mercado

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2           A     Rear cuff, yes. Perpetrator, you  
3 rear cuff them.

4           Q     It's not only procedure, you are  
5 supposed to do that?

6                   MS. SMITH: Objection.

7           A     Yes.

8           Q     Are there any circumstances in  
9 which you would front cuff someone?

10                   MS. SMITH: Objection.

11          A     Not that I know of.

12          Q     So if he is face down it's easier  
13 for you to rear cuff him at that  
14 point?

15                   MS. SMITH: Objection.

16          A     If he is complying with the orders.

17          Q     You said that you put him in cuffs?

18          A     Yes.

19          Q     How long did that take?

20          A     Seconds. Maybe thirty seconds,  
21 maybe twenty seconds, maybe.

22          Q     Twenty to thirty seconds?

23          A     Yes.

24          Q     What happened in that twenty to  
25 thirty seconds other than you putting him in

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I. Mercado

1  
2           These officers in the beige car  
3 were involved only to help you at that point  
4 and you and Officer Bellardo took Mr. Pierce  
5 to the 84th?

6           MS. SMITH: Objection.

7           Q     Is that a fair statement?

8           MS. SMITH: Objection.

9           A     I believe that it was our RMP that  
10 took him to the 84.

11          Q     Was one of the uniformed officers  
12 from the beige car placed in your car to take  
13 him to the 84th or did they just go off on  
14 their own?

15          MS. SMITH: Objection.

16          A     They left the scene.

17          Q     So just to get it straight then,  
18 Mr. Pierce is in front of the car, you cuff  
19 him with the help of two officers in an  
20 unmarked car between twenty and thirty  
21 seconds, you place him in the back of your  
22 car and you and Officer Bellardo take him to  
23 the 84th Precinct?

24          MS. SMITH: Objection.

25          Q     Correct?

---

1 I. Mercado

2 MS. SMITH: Objection.

3 A As I remember it?

4 Q Yes.

5 A I believe that we transported him  
6 to the 84.

7 Q Anything else you can recall about  
8 that?

9 MS. SMITH: Objection.

10 THE WITNESS: Can I answer?

11 MS. SMITH: If you can.

12 Q Yes.

13 A When we placed him under arrest  
14 Officer Taqi was at the scene. He was  
15 essentially following him on foot.

16 Q He arrived before or after you had  
17 Mr. Pierce in cuffs?

18 MS. SMITH: Objection.

19 A I don't remember if it was before  
20 or after.

21 Q Did he assist in the arrest or did  
22 you and Officer Bellardo basically have it  
23 under control?

24 MS. SMITH: Objection.

25 A I believe that Taqi assisted in the



C E R T I F I C A T E

I, CAROL LISTER, hereby certify that the DEPOSITION of IVAN MERCADO was held before me on the 18th day of January, 2017; that said witness was duly sworn before the commencement of the testimony; that the testimony was taken stenographically by myself and then transcribed by myself; that the party was represented by counsel as appears herein;

That the within transcript is a true record of the DEPOSITION of said witness;

That I am not connected by blood or marriage with any of the parties; that I am not interested directly or indirectly in the outcome of this matter; that I am not in the employ of any of the counsel.

IN WITNESS WHEREOF, I have hereunto set my hand this 18 day of January, 2017.

*Carol Lister*



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CAROL LISTER